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An Act To Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §4654, sub-§5, as amended by PL 2003, c. 658, §7, is further amended to read:

5. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency, the court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order, and the law enforcement agency, court security officer or correctional facility shall make a good faith effort to serve process expeditiously.

Sec. 2. 17-A MRSA §1326-A, as enacted by PL 1999, c. 469, §1, is amended to read:

§ 1326-A. Time and method of restitution

When restitution is authorized, and the offender is not committed to the Department of Corrections or placed on probation, the time and method of payment or of the performance of the services must be specified. Except when the offender is placed on probation, by the court and monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is committed to the Department of Corrections or placed on probation, the monetary compensation may must be ordered paid to the Department of Corrections and the time and method of payment must be determined by the Department of Corrections during the term of commitment or the period of probation. Once any term of commitment to the Department of Corrections or period of probation is completed and if the restitution ordered has not been paid in full, the offender is subject to the provisions of section 1329, including a specification by the court of the time and method of payment of monetary compensation upon a finding of excusable default. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money.

Sec. 3. 17-A MRSA §1328-A, as enacted by PL 1997, c. 413, §5, is amended to read:

§ 1328-A. Modification of restitution

A convicted person who can not make restitution payments in the manner ordered by the court or determined by the Department of Corrections pursuant to section 1326-A shall move the court for a modification of the time or method of payment or service to avoid a default. The court may modify its prior order or the determination of the Department of Corrections to reduce the amount of each installment or to allow additional time for payment or service.

Sec. 4. 19-A MRS §4006, sub-§6, as amended by PL 2001, c. 134, §5, is further amended to read:

6. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order an appropriate law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency or, court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order and the law enforcement agency or, court security officer or correctional facility shall make a good faith effort to serve process expeditiously.

SUMMARY

This bill permits the Department of Corrections to serve protection from harassment and protection from abuse orders on defendants incarcerated in its facilities. The bill also clarifies that victim restitution must be paid through the Department of Corrections when it is owed by a client of the department and requires that the department determine the time and method of payment while the defendant is a departmental client, with a defendant having recourse to the court to avoid a default.